

REMARKS

Claims 7 and 9 have been rewritten in independent form. Claim 12 has been cancelled. Claim 17 has been amended to include the subject matter previously presented in claim 21. Claims 1-3, 5, 8, 12, 20 and 21 have been cancelled. Claims 4, 6, 10, 11 and 13-16 have been amended to change their dependency in view of the cancellation of claims and the presentation of claims rewritten in independent form. Applicant respectfully requests reconsideration of this application.

The objection to claim 7 can be withdrawn.

The amendment to claim 7 above presents claim 7 rewritten in independent form. Additionally, the phrase "said number" has been deleted such that the issue raised in the objection to claim 7 is now resolved. The objection can be withdrawn.

The rejection under 35 U.S.C. §102(b) based on *Tominaga, et al.*

Applicant respectfully submits that none of the claims are anticipated by the *Tominaga, et al.* reference. A copy of a machine translation of the Japanese text of that reference is attached to this response as **Exhibit A**. That machine translation was obtained through the Japanese Patent Office website. The *Tominaga, et al.* reference has a different arrangement of braces compared to that which is recited in claims 7 and 9. The *Tominaga, et al.* reference does not have any teaching corresponding to the method of claim 17.

Claim 7 is not anticipated because the *Tominaga, et al.* reference does not have braces arranged in a substantially V-shaped orientation nor does it have a brace that includes a slot and a fastener received through the slot to secure the brace to an upright. Instead, the *Tominaga, et al.*

reference includes a bracket 3 that is secured to a doorpost 4 in some other manner. There is no possible *prima facie* case of anticipation against claim 7.

Claim 9 recites a brace that has a slot at one end that makes it adjustable relative to a platform and a second slot near an opposite end that makes the brace adjustable relative to the upright. There is no such brace in the *Tominaga, et al.* reference. The bracket 3 remains fixed relative to the upright 4 at all times. The only oblong holes 12 in the bracket 3 are situated relative to the floor. There is no possible *prima facie* case of anticipation against claim 9.

Claim 17 recites a method that is nowhere disclosed or possible within the *Tominaga, et al.* reference. Claim 17 includes supporting a car assembly in a hoistway and allowing it to tilt relative to guiderails. A position of the platform is then adjusted to change the weight distribution of the car assembly within the hoistway and to balance the car assembly. Nothing of the sort is possible within the *Tominaga, et al.* reference.

The *Tominaga, et al.* reference specifically teaches that adjustment of the floor 1 and drag flask 2 will not have any affect on any tilting of the door post 4. Paragraphs 0013 and 0014 of the machine translation (**Exhibit A**) indicate that "the levelness of the floor 1 is not affected and the door post 4 is not moved, the plumbness of the door post 4 is not affected, either, thereby, the re-alignment of levelness and plumbness is not required." In other words, the car assembly in the *Tominaga, et al.* reference never tilts relative to a guiderail when making an adjustment to change the distance between the sill 10 of the floor 1 and the sill 11 of the building. Therefore, it is impossible to perform a method consistent with claim 17 when using the teachings of the *Tominaga, et al.* reference. There is no *prima facie* case of anticipation against claim 17.

The rejections under 35 U.S.C. §103.

Applicant respectfully submits that none of claims 7 or 9 can be considered obvious in view of the *Tominaga, et al.* reference. There would be no way to modify the bracket 3 of the *Tominaga, et al.* reference in a manner that could make it somehow consistent with the braces of those claims. The unique structural arrangement of the braces in Applicant's claims 7 and 9 patentably distinguishes the claimed invention from the *Tominaga, et al.* reference in a way that makes it impossible to establish a *prima facie* case of obviousness based upon the *Tominaga, et al.* reference.

Claim 9 cannot be considered obvious. There is no reason to change the bracket 3 of the *Tominaga, et al.* reference in a manner to somehow attempt to make it consistent with the braces of claim 9. There is never any adjustment between the bracket 3 and the doorpost 4 in the *Tominaga, et al.* reference. There would be no reason to make such a change without using Applicant's claims and impermissible hindsight to attempt to justify such a modification.

Additionally, it appears that making such a change to bracket 3 of the *Tominaga, et al.* reference may defeat the intended operation of that reference which is to always maintain the plumbness of the doorpost 4 and the levelness of the floor 1 even when making the type of adjustment (i.e., to control the distance between the sills) discussed in that reference. There is no *prima facie* case of obviousness against claim 9.

Claim 21 has been discussed above. Applicant respectfully disagrees with the Examiner's conclusion that "*Tominaga, et al.* inherently disclose allowing the car assembly to tilt relative to guiderails based upon a current weight distribution of the car assembly." As indicated in the machine translation, paragraphs 0013 and 0014, the plumbness of the door post 4 is not affected and is never allowed to tilt according to the teachings of that reference.

It is not possible to modify the teachings of the *Tominaga, et al.* reference in a manner that would somehow allow for it to be interpreted to be the same as the method recited in claim 21.

There is no *prima facie* case of obviousness.

The dependency of claim 10 has been changed to depend from claim 9. As discussed above, claim 9 includes a brace arrangement that is not found in the *Tominaga, et al.* reference. Therefore, even if it were possible to combine the *Tominaga, et al.* and *Jackson* references, there is no *prima facie* case of obviousness because the result would not be consistent with the arrangement of claim 10. The brace arrangement cannot be found in the *Tominaga, et al.* reference and, therefore, there is no *prima facie* case of obviousness.

Conclusion

Applicant respectfully submits that this case is in condition for allowance.

Respectfully submitted,

CARLSON, GASKEY & OLDS

By: /David J. Gaskey/

David J. Gaskey, Reg. No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: July 6, 2009